that they did so anyway, then their conduct may be considered evidence of contributory negligence, the court said.

"In our view, (Owens-Corning's) only possibility of prevailing on its contributory negligence defense requires proof that Jones and Culverhouse were given such a warning," the court said.

Record - 3

DIALOG(R)File 655:BNA Daily News
(c) 1995 Bur. of Natl. Affairs Inc. All rts. reserv.

00817891
BNA EMPLOYMENT POLICY & LAW DAILY
December 07, 1995

Safety and Health
STUDY PROMPTS CALL FOR OSHA TO REOPEN
HEARINGS ON RULE OVER SECONDHAND SMOKE

WASHINGTON (BNA) -- A tobacco workers' union has joined Sen. Wendell Ford (D-Ky) in calling on the Occupational Safety and Health Administration to reopen hearings on a proposed rule designed to protect workers from secondhand smoke to take into account the findings of a recent study by the Congressional Research Service.

The study, released Nov. 14, concluded that OSHA assessed the risk of exposure to environmental tobacco smoke in the workplace based primarily on studies of exposures in the home, where the degree of exposure to secondhand smoke is generally thought to be greater. Thus "it is likely that relatively few workers would be exposed to sufficient (environmental tobacco smoke) to be at increased risk for lung cancer," which has been linked to exposure to secondhand smoke, the study found.

The Bakery, Confectionery and Tobacco Workers issued a statement Dec. 5 that called on OSHA to reopen its public hearings, contending that the agency rule could potentially affect millions of workplaces. Ford made a similar appeal following the release of the study.

However, the same study led Rep. Henry A. Waxman (D-Calif), a longtime foe of the tobacco industry, to a different conclusion. Waxman directed the study be done when he was chairman of the House Energy and Commerce Subcommittee on Health and the Environment.

In a statement issued Nov. 15 upon the study's release, Waxman said it confirmed or even added further credence to a 1993 Environmental Protection Agency report that labeled secondhand smoke a Class A known human

2046396155

Source: https://www.industrydocuments.ucsf.edu/docs/kgfl0000

carcinogen and linked it to 3,000 annual lung cancer deaths.

The study, Environmental Tobacco Smoke and Lung Cancer Risk, concluded that the range of lung cancer deaths that could be attributed to secondhand smoke--even after taking into account newer research--lies somewhere between 470 and 5,500 annual fatalities. Waxman said that would place the median estimate of annual fatalities at 2,780--"virtually the same level of deaths estimated by EPA."

Ford argued that the new report shows that the research reviewed by OSHA before the agency published its 1994 proposal is incomplete and that the agency should reopen the hearings. But OSHA is not expected to do that, in part because the agency has repeatedly extended the comment period for the rule-making, with the current deadline set for Jan. 31, 1996.

"Our response is that the public comment period is open through the end of January and that they are welcome to add whatever they want to it," OSHA spokeswoman Cheryl Byrne said Dec. 5.

OSHA's hearings, which opened in September 1994 and continued for nearly seven months, were the most extensive ever held for an agency standard, and its docket contains more than 100,000 comments.

Record - 4

DIALOG(R)File 655:BNA Daily News
(c) 1995 Bur. of Natl. Affairs Inc. All rts. reserv.

00817858
BNA LABOR DAILY
December 07, 1995

Safety and Health
STUDY PROMPTS CALL FOR OSHA TO REOPEN
HEARINGS ON RULE OVER SECONDHAND SMOKE

WASHINGTON (BNA) -- A tobacco workers' union has joined Sen. Wendell Ford (D-Ky) in calling on the Occupational Safety and Health Administration to reopen hearings on a proposed rule designed to protect workers from secondhand smoke to take into account the findings of a recent study by the Congressional Research Service.

The study, released Nov. 14, concluded that OSHA assessed the risk of exposure to environmental tobacco smoke in the workplace based primarily on studies of exposures in the home, where the degree of exposure to secondhand smoke is generally thought to be greater. Thus "it is likely that relatively few workers would be exposed to sufficient (environmental tobacco smoke) to be at increased risk for lung cancer," which has been

2046396156

Source: https://www.industrydocuments.ucsf.edu/docs/kgfl0000